Supreme Court, U.S.
FILED
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No.

In The
Supreme Court of the United States

LYNN JEWELL,

Petitioner

v.

LIFE INSURANCE COMPANY OF NORTH AMERICA,

Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

SUPPLEMENTAL APPENDIX

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In the United States District Court
For the District of Colorado
Senior Judge Zita L. Weinshienk
March 9, 2006

Darlene Martinez, Court Reporter
LaDonne Bush, Deputy Clerk

Civil Action No. 04-cv-00122-ZLW-BNB

LYNN JEWELL,

Plaintiff,

v.

LIFE INSURANCE COMPANY OF NORTH AMERICA,

Defendant.

COURTROOM MINUTES

Hearing on LINA's Motion for Judgment On The Administrative Record

2:00 p.m. Court in Session.

Appearance of counsel.

2:04 p.m. Argument by Mr. Englert.

2:30 p.m. Argument by Mr. Kane.

2:47 p.m. Rebuttal argument by Mr. Englert.

Court's conclusions of law.

ORDERED: LINA'S Motion for Judgment On The Administrative Record (Doc. No. 14), filed June 7, 2004, is denied.

ORDERED: Judgment will enter in favor of Plaintiff. Plaintiff shall be awarded his past due long-term disability benefits. Defendant is obligated to pay Plaintiff his ongoing long-term disability benefits under the long-term disability policy. The parties shall pay their own costs and attorney fees.

Discussion regarding the calculation of benefits.

ORDERED: No later than March 26, 2006, counsel shall submit a proposed judgment or joint status report.

Discussion regarding prejudgment interest.

3:07 p.m. Court in Recess.

Hearing concluded. Total time in court: 01:07.

In the United States District Court
For the District of Colorado
Senior Judge Zita L. Weinshienk

Civil Action No. 04-cv-0122-ZLW-BNB

LYNN JEWELL,

Plaintiff,

v.

LIFE INSURANCE COMPANY
OF NORTH AMERICA,

Defendant.

ORDER

On March 29, 2006, the Court ordered the parties to submit briefs addressing the issue of prejudgment interest. The Court has reviewed the parties' briefs (Doc. Nos. 112, 113, 114, 115) and the authority cited herein. An award of prejudgment interest in an ERISA case must be compensatory only and not punitive.[1] Given prevailing rates of return during the relevant period, the Court finds that a prejudgment interest rate of five percent adequately compensates Plaintiff for his loss of use of the benefits to which he was entitled.[2] Moreover, prejudgment interest in this case properly is

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[1] Allison v. Bank One – Denver, 289 F.3d 1223, 289 (10th Cir. 2002).

[2] *See* Ray v. Unum Life Ins. Co., 2005 WL 1994247 (D. Colo.).

calculated with an accrual date of September 30, 2002, the date that Defendant first was notified of Plaintiff's request for reconsideration, not October 2000, since Plaintiff did not challenge the termination of his benefits in October 2000.[3] The parties agree that the incremental calculation method set forth in Reed v. Mineta[4] applies here. Accordingly, it is

ORDERED that Plaintiff is awarded prejudgment interest at the rate of five percent. It is

FURTHER ORDERED that prejudgment interest shall be calculated with an accrual date of September 30, 2002. It is

FURTHER ORDERED that prejudgment interest shall be calculated on a monthly basis under the formula set forth in Reed v. Mineta.[5] It is

FURTHER ORDERED that Plaintiff shall file a proposed Judgment in conformity with this Order and the Court's Order of March 9, 2006, approved by both parties as to form, on or before May 30, 2006.

DATED, at Denver, Colorado, this 10 day of May, 2006.

BY THE COURT:

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[3] *See* Caldwell v. Life Ins. Co. of North America, 287 F.3d 1276, 1287 (10th Cir. 2002).

[4] 438 F.3d 1063 (10th Cir. 2006).

[5] Id.

/s/ Zita L. Weinshienk
Zita L. Weinshienk, Senior Judge
United States District Court